



U.S. House of Representatives
Committee on Transportation and Infrastructure

James L. Oberstar
Chairman

Washington, DC 20515

John L. Mica
Ranking Republican Member

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

James W. Coon II, Republican Chief of Staff

March 5, 2008

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management

FROM: Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff

SUBJECT: Hearing on "Doing Business with the Government: The Record and Goals for Small, Minority, and Disadvantaged Businesses"

PURPOSE OF THE HEARING

On Thursday, March 6, 2008, at 11:00 a.m., in room 2253 Rayburn House Office Building, the Subcommittee on Economic Development, Public Buildings, and Emergency Management will examine the small business programs of the Architect of the Capitol, the General Services Administration, the Federal Emergency Management Agency, the Smithsonian Institution, and the John F. Kennedy Center for the Performing Arts.

BACKGROUND

The Federal Acquisition Regulation (FAR) governs the process by which the Federal Government procures goods and services. With respect to small business concerns, the FAR, under Part 52.219-8, states that: "It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems". To implement this policy, each Federal agency establishes an annual goal that represents, for that agency, the maximum practicable opportunity for small business concerns.

Various laws have established requirements related to small business activities in the Federal Government:

- The Small Business Act of 1953 (P.L. 83-163) created the Small Business Administration (“SBA”) as an independent agency within the Executive Branch to encourage the use of and to protect the interests of small businesses. Its purpose was to “aid, counsel, assist, and protect the interests of small business concerns in order to preserve free competitive enterprise, ensure that a fair portion of the total purchases and contracts for supplies and services for the Federal Government is placed with small businesses, and to maintain the national economy.”
- The Small Business Act of 1958 (P.L. 85-536) amended the Small Business Act of 1953 and among other things created the Small Business Investment Corporation which focused on providing capital and equity investment.
- P.L. 95-507, which was enacted in 1978 also made major revisions to the Small Business Act. Among other things P.L. 95-507 redefined minority firms as socially and economically disadvantaged businesses; authorized the SBA to make to purchase the preferred securities of a minority small business investment company and make loans to State and local development companies; established a small business and capitalization program for socially and economically disadvantaged businesses; and perhaps most importantly, established an Office of Small and Disadvantaged Businesses in each federal agency having procurement powers.

Architect of the Capitol

Although the Office of the Architect of the Capitol (AOC) is not covered by the Small Business Act, the AOC has actively engaged in small business contracting. In 2007, the AOC initiated additional efforts to attract and increase small business participation while being consistent with the values of full and open competition. As part of this outreach effort, the AOC created a database of small businesses that have done business with the AOC or have self-identified as small businesses interested in future opportunities. “Since starting the program, the AOC has awarded 11 small business contracts worth more than \$10.5 million. These contracts range in value from \$121,000 to \$2.9 million and provide services ranging from janitorial services to website development”.¹

The AOC also started the Small Business Subcontracting Program. This program required large construction contracts or task orders exceeding \$1 million to submit a small business contracting plan. According to the AOC, the minimum subcontracting goals set for the large contracts are:

- Small Business Concerns: 28 percent
- Small Disadvantaged Business(SDB) Concerns: 8 percent
- Women-owned Small Business Concerns: 5 percent

¹ Architect of the Capitol. Small Business Fact Sheet. February 2008

- HUBZone Small Business Concerns: 3 percent
- Service-disabled Veteran-owned Small Business Concerns: 3 percent²

The goals established by the program meet or exceed the Small Business Administration's statutory goals for Federal executive agencies. The first contract awarded under this new program is worth \$3.9 million.

General Services Administration

The General Services Administration's (GSA) Office of Small Business Utilization (OSBU) advocates for small, minority, veteran, HUBZone, and women business owners. Its mission is to promote increased access to GSA's nationwide procurement opportunities. OSBU monitors and implements small business policies and manages a range of programs required by law. GSA's small business programs support entrepreneurial opportunities, identify new business opportunities, and increase technological capabilities. Consistent with SBA procedures, SBA negotiates with GSA concerning their prime contracting goals and achievement with small businesses to ensure that small businesses have the maximum practicable opportunity to provide goods and services to the Federal Government.

In addition, GSA has established the office of GSA Small Business Technical Advisors, located in each region. These offices work with their respective services, such as telecommunications or the public building service, to develop independent prime contracting goals for each small business category. These regional goals support the negotiated agency-wide goal. In developing independent contracting goals, a review of the achievements of the last three years and current year opportunities is performed.

According to GSA, the following agency-wide goals are in effect for fiscal years 2008-2009:

- 38 percent for prime contracts awards to Small Business
- 8 percent for prime contract awards to Small Disadvantaged Business (including 8(a) Business)
- 5 percent for prime contract awards to Women-owned Small Business
- 3 percent for prime contracts awards to HUBZone Small Business
- 3 percent for prime contract awards to Service-Disabled Veteran-Owned Small Business³

Each GSA region is responsible for developing and implementing outreach programs. Outreach efforts include activities such as small business fairs, trade group seminars, pre-award and post-award small business opportunity fairs and other forums that promote the utilization of small business as contractors. According to GSA: "These events are intended to provide an opportunity for small business to meet with agency representative to discuss their capabilities and learn of potential procurement opportunities. Additionally they promote partnering and teaming opportunities for small and large businesses".⁴

² Architect of the Capitol. Small Business Fact Sheet. February 2008

³ General Services Administration. Small Business Fact Sheet. February 2008.

⁴ General Services Administration. Small Business Fact Sheet. February 2008.

Federal Emergency Management Agency

The Federal Emergency Management Agency (FEMA) operates its small business program through the Small Business Specialist Office and more recently through programs of the recently established the Private Sector Office. The Small Business Specialist office is principally responsible for ensuring FEMA's compliance with small business procurement regulations, practices, and goals of the Federal Government. The newly created Private Sector Office has been established to conduct outreach to businesses at the state and local levels to engage these entities in all aspects of emergency management, identify and engage the private sector businesses to aid FEMA during disasters, and to leverage private sector resources to help during a recovery efforts.

FEMA's Small Business Specialist Office's goals include:

- "Participating in outreach forums to meet with the Small Business Community;
- Conducting personal meetings with interested vendors/contractors to present company capabilities and performance;
- Developing goals and acquisition strategies which are increasingly structured for maximizing the number of awards to small businesses;
- Networking with representatives of the U.S. Small Business Administration and local small business development centers;
- Participating in local, State and national conferences, seminars, and exhibits to gain access to current small business issues and interface with business and industry; and
- Enhancing the Central Contractor Registration, also referred to as "CCR," in order to capture local company information interested in debris removal and/or to support disaster response and recovery requirements, as needs arise".⁵

John F. Kennedy Performing Arts Center

The Kennedy Center is not covered by the Small Business Act but is committed to awarding a fair portion of its government purchases to small, minority and disadvantaged business enterprises. The Center looks for opportunities to offer contracts to such businesses. Given the Center's relatively small budget, the opportunities for such awards are limited; however, each contracting action is evaluated as to its suitability for a small, minority and disadvantaged business opportunity in accordance with the guidance provided by the Small Business Act and subsequent amendments. In addition to such ongoing efforts, the Center has established Basic Ordering Agreements with five small businesses for general construction services, including life safety work on the roof terrace, and security upgrades at parking garage lobbies.

Smithsonian Institution

The Smithsonian Institution is not an "agency" as defined in the Small Business Act, 15 *United States Code* (U.S.C.) Section 632(b), and the Administrative Procedures Act, 5 U.S.C. Section

⁵ Federal Emergency Management Agency. Small Business Fact Sheet 2008

551(1), and therefore is not subject to the statutes and Executive Orders governing small business and small disadvantaged business requirements. However, the Institution abides by the spirit and intent of these various statutes and Executive Orders on all projects where federally appropriated dollars are spent. In addition, they apply small business goals in all procurement actions, to the greatest extent practicable. The Office of Contracting and the Office of Equal Employment and Minority Affairs monitor and implement the Institution's programs in this area.

According to the Smithsonian, it is the Institution's policy that "to the maximum extent practicable, and within the context of the Institution's contracting needs, small businesses and SDBs should be provided opportunities to compete for and be awarded Smithsonian procurements and contracts for which they qualify and are able to meet performance requirements".⁶

Smithsonian Office of Contracting

According to Smithsonian directives and policy, the Director of the Office of Contract (OCon) and the Smithsonian Supplier Diversity Program (SDP) Manager establish annual small business and SDB utilization goals. Consistent with SBA procedures, these goals are established considering guidance provided by the SBA, the SBA nationwide small business and SDB utilization goals, and annual goals established by individual Smithsonian units. These targets are also based on the established goals for a percentage of the number and dollar amount of subcontracts awarded by Smithsonian prime contractors to small businesses and SDBs in previous years. The SDP Manager obtains SBA review of the Smithsonian-proposed goals on a biennial basis. "When the SBA recommends changes to the Smithsonian proposed goals, the SDP Manager confers with the Director of OCon, prior to entering discussions with the SBA to adjust the Smithsonian-proposed procurement goals. Information regarding the Institution's current goals for small business and SDB utilization is published separately by the Office of Equal Employment and Minority Affairs (OEEMA)".⁷

According to Smithsonian practices, at the beginning of each fiscal year this information is updated and revised goals are established. There are periodic reviews and progress reports are prepared. These reports look at progress in terms of the number of procurement actions taken and the total value of awards made by the Smithsonian units to small businesses and SDBs, and by the number and dollar value of subcontracts that Smithsonian prime contractors award small businesses and SDBs during each fiscal year. Following the SDP Manager's review, these reports are provided to the SBA in accordance with the Institution's external report review and clearance procedures.⁸

Office of Equal Employment and Minority Affairs

Within the Smithsonian, the Office of Equal Employment and Minority Affairs (OEEMA) coordinates with the Office of Contracting on small business matters. OEEMA conducts outreach to the small and disadvantaged business community, and advocates for these interests within the Institution. OEEMA also "monitors and reports on equal employment opportunity (EEO) and

⁶ Smithsonian Institution. Smithsonian Directive 216. August 2005.

⁷ Smithsonian Institution. Smithsonian Directive 216. August 2005.

⁸ Smithsonian Institution. Smithsonian Directive 216. August 2005.

small and disadvantaged business (SDB) initiatives.”⁹

⁹ Smithsonian Institution. Smithsonian Directive 216. August 2005.

WITNESSES

Mr. Stephen Ayers
Acting Architect of the Capitol

Ms. Terrie Rouse
Chief Executive Officer for Visitor Services
Capitol Visitor Center

The Honorable Lurita Doan
Administrator
General Services Administration

Mr. Roger Mosier
Vice President
John F. Kennedy Center for the Performing Arts

Mr. Albert Sligh
Director
Office of Management
Federal Emergency Management Agency

Ms. Era Marshall
Director
Office of Equal Employment and Minority Affairs
Smithsonian Institution

Ms. Rosalind Styles Stephenwoof
President
National Association of Minority Contractors
Washington, D.C. Metro Chapter

Mr. Dennis C. Smith
Small Business Coordinator
Capital City Associates, Inc.

Mr. Joel Zingeser
Associated General Contractors of America

Ms. Catherine Giordano
President/CEO
Knowledge Information Solutions, Inc.